

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BUCK'S, INC., A NEBRASKA
CORPORATION,

Plaintiff and
Counterclaim
Defendant,

vs.

QUIKTRIP CORPORATION, AN
OKLAHOMA CORPORATION,

Defendant and
Counterclaimant.

8:15-CV-340

ORDER QUIETING TITLE

This matter is before the Court following trial on Buck's, Inc.'s claim for tortious interference with a business expectancy and for a constructive trust, and QuikTrip Corporation's counterclaim to quiet title. *See filing 78*. A jury trial was had on Buck's tort claim, and Buck's constructive trust claim and QuikTrip's quiet title claim were tried to the Court. *See InCompass IT, Inc. v. XO Commc'n Servs., Inc.*, 719 F.3d 891, 895–96 (8th Cir. 2013).

The litigation concerned property located at Interstate 80 and Highway 370 (the Property), legally described as follows:

The land referred to is situated in the State of Nebraska, County of Sarpy and is described as follows:

A tract of land located in part of the Southeast Quarter of the Southeast Quarter of Section 27, Township 14 North, Range 11 East of the 6th P.M., Sarpy County, Nebraska, more particularly described as follows: Beginning at a point which is South 89 degrees 40'00" West, 1167.13 feet and North 0 degrees, 36'00", 87.72 feet from the Southeast corner of the Southeast Quarter of said Section 27, said point being the point of intersection of the North right of way line of Highway No. 370 and the East line of the frontage road; thence North 0 degrees 36'00" West, 215.31 feet; thence North 89 degrees 24'00" East, 202.50 feet; thence South 0 degrees 36'00" East, 215.52 feet to a point on the North

right of way line of Highway No. 370; thence South 89 degrees 27'30" West on said North right of way line 202.50 to the point of beginning. (The South line of said Southeast Quarter of Section 27 assumed South 89 degrees 40'00" West in direction.) (Also known as Tax Lot 6);

and

A tract of land located in part of the Southeast Quarter of the Southeast Quarter of Section 27, Township 14 North, Range 11 East of the 6th P.M., Sarpy County, Nebraska, more particularly described as follows: Beginning at a point 965.22 feet South 89 degrees 40'00" West of and 88.50 feet North 0 degrees 20'00" West of the Southeast corner of the said SE $\frac{1}{4}$ of Section 27, said point being in the North R.O.W. line of State Highway #370; thence North 89 degrees 27'30" East along the said North R.O.W. line, 203.4 feet to a point on the Westerly R.O.W. line of Interstate Highway #80; thence North 29 degrees 27'30" East along said Westerly R.O.W. line, 107.95 feet to a point of curve; thence Northeasterly along the said Westerly R.O.W. line on a curve to the right (radius being 864.00) feet for an arc distance of 149.38 feet; thence South 89 degrees 24'00" West, 342.93 feet; thence South 0 degrees 36'00" East, 215.52 feet to the point of beginning. (The South line of said SE $\frac{1}{4}$ of Section 27 assumed South 89 degrees 40'00" West in direction.) (Also known as Tax Lots 4B & 5 and to be known as Tax Lot 14).

and

Lot 1, Murray Sapp, a subdivision in Sarpy County, Nebraska.

Nebraska Revised Statute § 25-21,112 governs actions to quiet title:

[a]n action may be brought and prosecuted to final decree, judgment or order, by any person . . . claiming title to, or an estate in real estate against any person or persons who claim . . . [an] interest therein, for the purpose of determining such estate, or interest, canceling unenforceable liens, or claims against, or which appear to be against said real estate, and quieting the title to real estate.

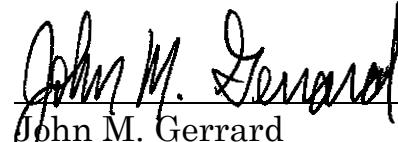
The jury returned a verdict in favor of QuikTrip on Buck's tort claim, and the Court has separately dismissed Buck's constructive trust claim. The Court now finds, consistent with the jury's verdict, that Buck's has no real or claimed interest in the Property as a matter of law. Pursuant to the Court's Order of February 10, 2017 ([filing 103](#)), the Court hereby quiets title to the Property in QuikTrip.

IT IS ORDERED:

1. The Lis Pendens filed with the Sarpy County Register of Deeds is hereby cancelled and Buck's should immediately take all necessary steps to remove the Lis Pendens from the property records.
2. QuikTrip owns the Property free and clear of all encumbrances and holds exclusive right to the use and benefit from the Property.

Dated this 13th day of March, 2017.

BY THE COURT:



John M. Gerrard
United States District Judge